

# EXHIBIT 33

**DECLARATION OF STONY BROOK UNIVERSITY**

I, Kevin Gardner, declare as follows:

1. I am the Vice President for Research and Innovation at Stony Brook University (“University”) in Stony Brook, NY. I have held that position since June 10, 2024. Prior to this, I was Executive Vice President for Research and Innovation at the University of Louisville for four years, and Vice Provost for Research at University of New Hampshire before that. I have been a professor and funded researcher continuously since 1997 and have received funding from many federal agencies including the National Science Foundation, the Department of Defense, the Environmental Protection Agency, the Department of Transportation, the National Oceanic and Atmospheric Association, and numerous private sector companies.

2. I have personal knowledge of the contents of this declaration and have detailed and specific knowledge of the matters based on my position and the records gathered by Stony Brook University personnel, and could testify thereto.

3. Stony Brook University receives substantial annual funding from the National Science Foundation (“NSF”). In FY 2024, total expenditures from NSF awards was \$41.4 million, with \$9.2 million of that attributed to indirect costs. This yielded an effective indirect cost rate of 28.7% for FY24. (Note that this rate is typical as indirect costs are only calculated based on certain types of expenditures.) Capping indirect costs at 15% would have meant a \$6.3 million reduction in support for actual research costs in FY 2024, which would be devastating for an institution like Stony Brook University. By way of example, and as detailed further below, all of our research security staff, sponsored programs staff, and grants management staff are funded through indirect costs. These highly-skilled individuals are essential to ensuring that the University can comply with federal requirements around export controls, research security, and proper management of

federal funds, among other things. A funding cut of the magnitude announced by the NSF would require layoffs of these staff and have an immediate effect on the critical functions they support.

4. Stony Brook University intends to apply for new funding awards renewals and continuations of existing funding awards, in the next year and in future years to come and has numerous awards currently under review for funding.

5. The funding Stony Brook University receives from NSF supports critical and cutting-edge research vital to our nation's security and the security and functioning of its financial, energy, and healthcare sectors. Millions of Americans benefit from and depend on this research. For example:

- a. The University's research into Quantum Information Science and Technology has yielded the nation's most advanced Quantum Network that currently operates across Long Island and into the financial district of New York City. Quantum networks are recognized as the future of secure information transfer, and we are in a global race to secure American industries, such as finance, energy, healthcare, and more. Quantum networks are critical technology for the Department of Defense in the coming decade. The next phase of Stony Brook's Quantum Virtual Laboratory has been submitted and is pending review at the NSF currently.
- b. The University and its Institute for Advanced Computational Sciences has submitted a proposal in response to a request from the NSF for an Innovative High Performance Computer. This new supercomputing capacity would add to the nation's widely accessible computing resources and would be available for

Artificial Intelligence (AI) related computation, greatly expanding the scientific capacity for this critical technology.

- c. The University is preparing a proposal for the Materials Innovation Platform, a program in NSF's Division of Materials Research, which seeks to transform the nation's capability to develop new materials by integrating automation and machine learning (artificial intelligence) into the development of new types of materials. New materials are the keys for more highly efficient Artificial Intelligence machines, for the new Quantum Internet and quantum economy, and for the new generation of nuclear energy power technologies. New materials underlie most of the technological advancements in electronics, wearable devices, and many categories of innovation that drive the US economy.

6. Reimbursement of Stony Brook's indirect costs is essential for supporting this research. NSF's cutting of indirect cost rates to 15% would preclude carrying out the kinds of research projects described in paragraph 5 in the future.

7. Indirect costs on a pending grant from NSF are required to construct new facilities that are needed for Stony Brook to host the next supercomputer on behalf of the US scientific community. It will cost millions to upgrade facilities with sufficient power, cooling and other upgrades needed for this computer that will be the workhorse of AI research for the country for the next five years. The quantum internet we have constructed includes a quantum control room and major infrastructure installed across the region at private sector data centers. As we build the nation's secure quantum internet facilities to support this critical technology for the US, these types of infrastructure are essential. Our proposed manufacturing innovation platform will be a state of

the art, automated laboratory and requires complete construction from a building shell, the costs of which are not included in the direct costs of the grant. Without this critical infrastructure that will be supported by indirect costs, we simply cannot conduct the research.

8. Physical facilities costs are one of the largest components of indirect costs. This includes not only the usual costs of constructing and maintaining buildings where research occurs, but the very high costs of outfitting and maintaining specialized laboratory space, which can require special security, advanced HVAC systems, and specialized plumbing, electrical, and waste management systems, as well as specialized laboratory equipment. Stony Brook's Select Agent program, for example, conducts critical research on bioweapons that requires not only highly specialized laboratories, but also the utmost security. Our mission to provide critical technology to the Department of Defense has required the hiring of numerous staff and the procurement of secure computational and data storage facilities, to ensure the security of our research. The features and amount of space available to researchers have a direct and obvious impact on the nature and amount of research that can be done at Stony Brook University. We could not offer the nation the supercomputing capabilities we have proposed with a 15% cap on indirect costs. Nor could we plan to build the Quantum Internet or the next generation materials innovation platform that promise to help our country maintain its global position in technology. Stony Brook University, a state university, currently has \$1.8 billion in deferred maintenance on its campus. We cannot rely on subsidies from any other source to pay the bill for the federal research that we conduct at the highest and most competitive levels in the world. We rely on federal grants to pay the real cost of conducting that research in order to build and maintain the necessary facilities and infrastructure for the work to be done.

9. In addition, indirect costs fund the administration of awards, including staff who ensure compliance with a vast number of regulatory mandates from agencies such as NSF. These mandates serve many important functions, including ensuring research integrity; protecting research subjects; properly managing and disposing of chemical and biological agents and other materials used in research; managing specialized procurement and security requirements for sensitive research; managing funds; preventing technologies and other sensitive national security information from being inappropriately accessed by foreign adversaries; providing the high level of cybersecurity, data storage, and computing environments mandated for regulated data; ensuring compliance with specialized security protocols and safety standards; maintaining facility accreditation and equipment calibration to meet research quality and security standards; and preventing financial conflicts of interest.

10. Recovery of Stony Brook University's indirect costs is based on predetermined rates that have been contractually negotiated with the federal government in great detail, which offers complete transparency.

11. Through fiscal year 2027, the predetermined indirect cost rate is 58.5%, and for fiscal year 2028 the rate is 59.5%. The rate established for the Department of Defense is 62.5%, also through the end of 2028. This rate was finalized by the DHHS on February 13, 2025.

12. The effects of a reduction in the indirect cost rate to 15% would be devastating. Of the \$41.4 million in NSF funding that Stony Brook University expended FY 2024, approximately \$32.2 million was allocated to direct costs, and \$9.2 million consisted of reimbursement of indirect costs. Similarly, in fiscal year 2025 through the end of March, 2025, Stony Brook University received \$18.8 million in NSF funding with direct costs approximately \$14.6 million and \$4.2 million in indirect costs. And over the next five years, Stony Brook anticipates receiving an

average of \$30 million from the NSF for annual direct costs. Based on the predetermined indirect cost rate of 58.5%, which was agreed upon by the federal government as of February 13, 2025 and applying that rate to the direct costs (as modified pursuant to the CFR), Stony Brook University reasonably expects to receive approximately \$11.4 million in indirect cost recovery on an annual basis over the next five years.

13. If—contrary to what the University has negotiated with the federal government—the indirect cost rate was reduced to 15% for new awards, that would significantly reduce Stony Brook University’s anticipated annual indirect cost recovery by approximately \$6 million.

14. This reduction would have deeply damaging effects on the University’s ability to conduct research from day one. Many of the University’s current research projects will be forced to slow down or cease abruptly if forced to apply for renewals at the 15% indirect cost cap. As noted above, this will also necessarily and immediately result in staffing reductions across the board. For example:

- a. The University would be required to reduce administrative staff that are essential to our ability to conduct federally sponsored research. A \$6 million cut would force the immediate reductions in staff of about 50 people. This will grind our research support function to a halt immediately.
- b. Investments that the university makes in upgrading infrastructure to permit the best research in the world, to attract top researchers globally, will be similarly compromised, directly affecting our ability to apply for grants of the type described in this declaration. Each of these grants serves a national need to advance technologies critical for US security and global leadership in technology. Each grant proposes to host facilities that are available to

researchers across the country: for advance AI-related supercomputing, for building and testing the quantum internet, and for next generation materials development. Each of these are national user facilities that would be compromised or impossible with the cuts to indirect cost rates.

15. Stony Brook University has for decades relied on the payment of indirect costs. And until now, we have been able to rely on the well-established process for negotiating indirect cost rates with the government to inform our budgeting and planning. Operating budgets rely on an estimate of both direct and indirect sponsored funding to plan for annual staffing needs (*e.g.*, post-docs, PhD students, and other research staff), infrastructure support (*e.g.*, IT networks, regulatory compliance, and grant management support), and facility and equipment purchases. And in some cases, Stony Brook University has long-term obligations—for example, PhD students that we accept and plan to support for five to six years, postdocs who represent the brightest minds in the world, whom we accept and plan to train and develop for three years—and it relies on budgeted grant funding, including associated indirect cost recovery, to fulfill these commitments. This multi-year budgeting process also assumes the availability or possibility of grant renewals at roughly similar terms – and certainly at the negotiated indirect cost rate – as had been previously available.

16. In addition to the immediate effects and reliance interests described above, dramatically cutting indirect cost reimbursement would have longer-term effects that are both cumulative and cascading. Our ability to provide chemical, biological, radiological, and human subjects safety relies on indirect costs. Our ability to have the required research security and to secure advanced technologies that give the US technological superiority on the global stage require indirect costs; compromising these programs will compromise US security.



17. Finally, slowdowns or halts in research by Stony Brook University and other American universities will allow competitor nations that are maintaining their investments in research to surpass the United States on this front, threatening both our Nation's national security and its economic dominance. We are in a race in Quantum networking, distributed quantum computing and quantum communication that will determine the future of defense communications. Not winning this race will mean the US will be in a far weaker position in the future and will not enjoy the advantages of technological superiority of our military.

18. Stony Brook University cannot cover the funding gap itself. As a State University with capped tuition, a small endowment, and a mission to serve the educational needs of our state and community, there are no resources to fill the gap for funding the true costs of research with other funds. While Stony Brook University maintains an endowment, it is neither feasible nor sustainable for Stony Brook University to use endowment funds or other revenue sources to offset shortfalls in indirect cost recovery:

- a. The majority of the University's endowment—around 90%—is restricted to specific donor-designated purposes, such as scholarships, faculty chairs, and academic programs. Stony Brook University is not legally permitted to use those funds to cover research infrastructure costs.
- b. Even the portion of the endowment that is unrestricted is subject to a carefully managed annual payout, typically around 4.5%, to ensure long-term financial stability for the institution.

22. It is also not feasible or sustainable for Stony Brook University to use other revenue sources to offset shortfalls in indirect cost recovery. As a non-profit institution, Stony Brook University reinvests nearly all of its revenue into mission-critical activities, leaving little margin

to absorb unexpected funding gaps. In other words, unlike for-profit organizations, Stony Brook University does not generate significant surpluses that could be redirected without impacting core academic priorities such as educational programs and financial aid support for students. Absorbing the cost of a lower indirect cost rate, even if it were possible, would create long-term budget pressures on Stony Brook University—which would in turn force reductions in key investments supporting Stony Brook University’s faculty, students, staff, research, and teaching infrastructure, as well as other critical activities needed to maintain Stony Brook University’s academic excellence. So even if Stony Brook University could “cover” some of the indirect costs previously funded by NSF, it could do so only by negatively affecting other critical goals central to the institution’s mission.

23. If Stony Brook University can no longer apply for NSF grants because it is unable to accept the new indirect cost rate cap – a risk that would impact virtually all of our NSF grants – the harms described herein would be exacerbated. That greater loss in funding from NSF would mean more significant cost-cutting measures would need to be adopted—and quickly. Stony Brook University cannot “float” all the indirect costs it would likely lose coverage for – nor could it float NSF grants altogether if it is not able to accept the 15% cap – so some research projects would need to be terminated altogether, and others would need to be scaled down or pared back significantly. The process of identifying these cuts would need to begin immediately, and layoffs, closures, and research pauses or contractions would follow soon thereafter. Cutting back on Stony Brook University’s research in fields such as Quantum Information Science and Technology, Artificial Intelligence, and Advanced Materials will also have long-term implications on national security and the American economy.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 5<sup>th</sup>, 2025 at Stony Brook, New York

A handwritten signature in black ink, reading "Kevin H. Gardner". The signature is written in a cursive style with a large, stylized 'K' and 'G'.

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Dr. Kevin Gardner